

JESSE W. JACK, ESQ. (Bar # 034669)
LAW OFFICES OF JESSE W. JACK
2269 Dry Creek Road
San Jose, California 95124-1216
Telephone: (408) 279-5040
Facsimile: (408) 279-5044

Attorneys for Defendants,
29-41 South Jackson, L.P. and
29-41 South Jackson, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Division: San Francisco Oakland X San Jose Eureka

SCOTT JOHNSON,) Case No.: 5:19-CV-02737-LHK
Plaintiff,)
v.)
29-41 SOUTH JACKSON, LP, a California)
Limited Partnership; 29-41 SOUTH JACKSON,)
LLC, a California limited liability company;)
ELENA GALINDO ALVAREZ; and DOES 1-10,)
Defendants.)

I. ANSWER TO CLAIMS IN THE COMPLAINT

Defendants 29-41 SOUTH JACKSON, LP, a California Limited Partnership and 29-41 SOUTH JACKSON, LLC, a California limited liability company, in answering Plaintiff's unverified Complaint on file herein, generally deny each and every allegation of Plaintiff's complaint.

II. AFFIRMATIVE DEFENSES

AS AND FOR SEPARATE AFFIRMATIVE DEFENSES to each cause of action directed to defendants 29-41 SOUTH JACKSON, LP, a California Limited Partnership and 29-41 SOUTH

JACKSON, LLC, a California limited liability company, these answering Defendants allege as follows:

1. The complaint does not state facts sufficient to constitute a cause of action against these answering Defendants.

2. The subject building was constructed prior to July 26, 1990 and is not, therefore, subject to The Americans with Disabilities Act, and there has not been any new construction or alteration of the existing structures that would require ADA accessibility in compliance with ADAAG new construction criteria.

3. The property in question was built according to local building permits and inspection processes.

4. These Defendants meet the definition of a "small business" as provided in Civil Code §55.56(2)(f).

5. The Plaintiff in this case "staked" his claims in order to maximize the amount of penalty he claims.

6. The imposition of civil penalties under the facts of this case where the Plaintiff intentionally visited the subject property in January, 2019 and March, 2019 is unconstitutional, in that the penalty is excessive.

Dated: July 15, 2019

LAW OFFICES OF JESSE W. JACK

/s/ Jesse. W. Jack

By: Jesse W. Jack, Esq.
Attorney for Defendants,
29-41 SOUTH JACKSON, LP, a California Limited
Partnership and 29-41 SOUTH JACKSON, LLC, a
California limited liability company

PROOF OF SERVICE
(CCP § 1013, 1013a and 2015.5)

I am employed in the County of Santa Clara, State of California. I am over the age of 18 years and am not a party to the within action or proceeding. I am employed by the Law Offices of Jesse W. Jack, located at 2269 The Alameda, San Jose, California 95124. I am readily familiar with the business practice for collection and processing of correspondence for mailing within the United States Postal Service and am aware that envelopes placed for collection and mailing with the firm of Jesse W. Jack will be deposited within the United States Postal Service on the same day for the first class mailing in the ordinary course of business.

On July 15, 2019, I served the following documents described as **ANSWER TO UNVERIFIED COMPLAINT**, on the parties in this action. Service of the above document(s) was/were effectuated by the following means of service:

XXX US MAIL – By placing true copies in an envelope addressed and served as follows:

Amanda Seabock, Esq.
Center for Disability Access
P.O. Box 262490
San Diego, CA 92196-2490

Attorney for Plaintiff Scott
Johnson

VIA OVERNIGHT DELIVERY SERVICE – I caused such envelope(s) to be deposited in a box or other facility regularly maintained by the express service carrier or delivered to an authorized courier or driver authorized by the express service carrier with delivery fees paid or provided for.

HAND DELIVERY VIA COURIER - By causing the document(s) listed above to be hand-delivered to the following person(s) at the address(es) set forth below.

VIA EMAIL - I emailed a true copy to the email address listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 15th day of July, 2019, at San Jose, California.

Cheryl Norris
Cheryl Norris